

# Committee Charge

Develop, in coordination and cooperation with the Environmental Protection Agency, amendments to the Virginia Soil and Water Conservation Board's Virginia Stormwater Management Program (VSMP) Permit Regulations (§§ 4 VAC 50-60-10 et seq.) to address

- the minimum water quality and quantity criteria and administrative functions that a local stormwater management program must contain to receive program delegation by the Board for administration of the VSMP or portions thereof,
- administrative procedures by which the Board makes its delegation determinations,
- DCR program administration and oversight procedures, and
- revisions to the statewide stormwater permit fee schedule to a level sufficient to carry out the stormwater management program by localities and the Department.



# Stormwater Technical Advisory Committee Program Briefing

May 4, 2006



- State Parks • Soil and Water Conservation • Natural Heritage
- Outdoor Recreation Planning • Land Conservation
  - Dam Safety and Floodplain Management
  - Chesapeake Bay Local Assistance

*[www.dcr.virginia.gov](http://www.dcr.virginia.gov)*

# Areas to be Discussed

- 1) Background leading up to the regulatory action
- 2) Tentative Regulatory Process
- 3) NOIRA issues
- 4) Stormwater Program Overview
- 5) Code Requirements
- 6) Regulatory Requirements



# Items in the Notebooks

- 1) TAC Member List
- 2) NOIRA - Local Programs
- 3) NOIRA - Fees
- 4) Virginia Stormwater Management Act
- 5) Virginia Stormwater Management Program (VSMP)  
Permit Regulations
- 6) Erosion and Sediment Control Regulations
- 7) Chesapeake Bay Local Assistance Regulations
- 8) Model Stormwater Ordinance
- 9) Summary of Comments Received
- 10) Meeting Materials.....



# **Background Leading up to the Regulatory Action**

# Need for Streamlining and Improvements

- Legislative Study Commission
- Commission on the Future of Virginia's Environment
- Governor's Natural Resources Leadership Summit



# Governor's Natural Resources Partnership Agenda

“The Secretary of Natural Resources will work with the DEQ, DCR, CBLAD, other agencies and the public to streamline the current storm water management process. A plan and recommendations are due to the Governor by October 1, 2003 that provides for improved water quality protection and evaluates storm water programs statewide.”



# Stormwater Task Force Established

- As a result of the Governor's Summit (April 2003), the Secretary of Natural Resources requested the Director of DCR to convene an inter-agency task force to develop a plan and recommendations.
- Task force included the Director of DCR, the Deputy Director of DEQ, the Director of CBLAD, SNR staff, and agency headquarters and field staff.



# Agencies and Boards Implementing Stormwater Management Programs



- **Department of Conservation and Recreation**
  - Board of Conservation and Recreation
  - Virginia Soil and Water Conservation Board



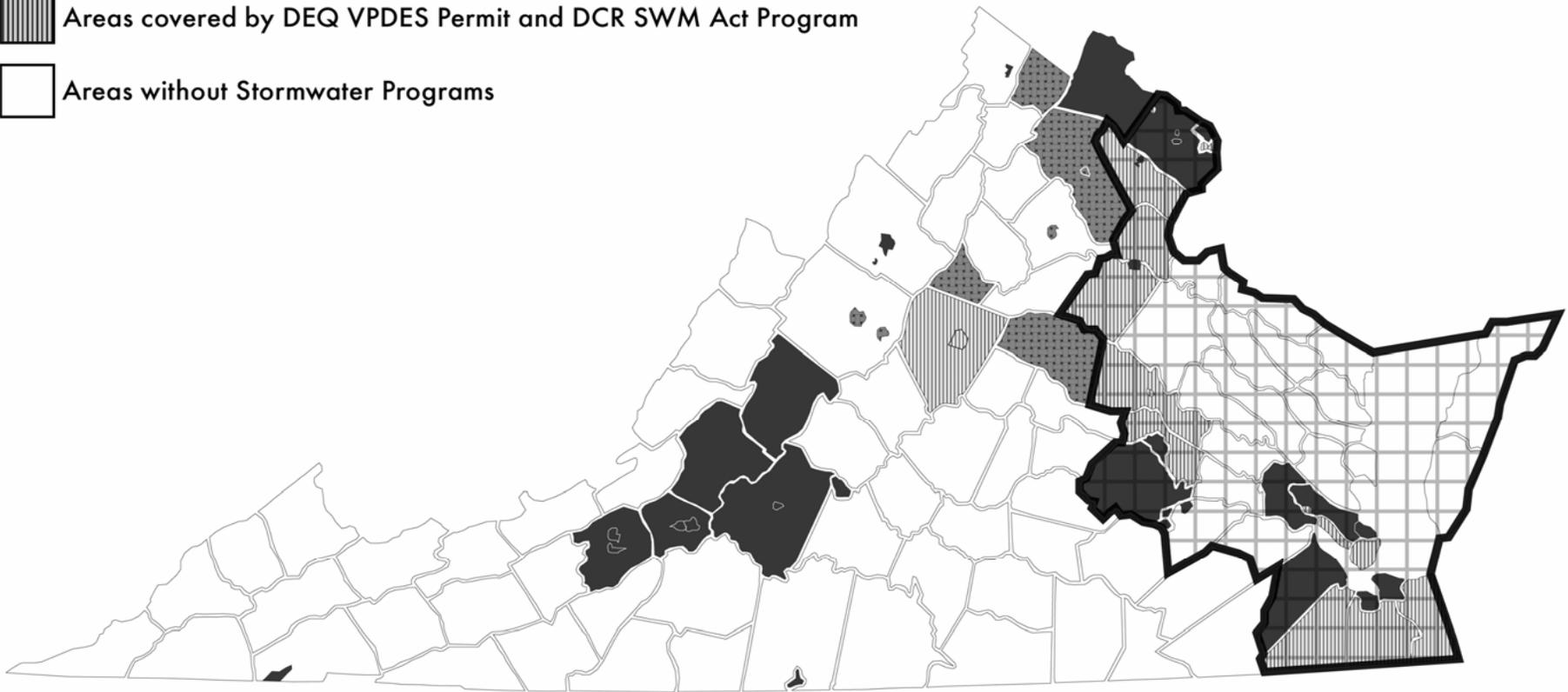
- **Department of Environmental Quality**
  - State Water Control Board



- **Chesapeake Bay Local Assistance Department**
  - Chesapeake Bay Local Assistance Board

# State Stormwater Programs as Currently Applied in Virginia

-  Localities covered by CBLAD Chesapeake Bay Preservation Act
-  Localities with DCR SWM Act Programs
-  Localities with DEQ VPDES Permit
-  Areas covered by DEQ VPDES Permit and DCR SWM Act Program
-  Areas without Stormwater Programs



**NOTE: Erosion & Sediment Control is mandated statewide.**

# Task Force Program Restructuring Goals



- Reduce public confusion
- Clarify requirements and oversight
- Create more even playing field
- Coordinate inspections and findings
- Improve enforcement authority
- Eliminate overlap in local reporting requirements
- Eliminate redundant agency program reviews

# Environmental Goals

- Reduce sediment impacts during construction and concentrated runoff, pollutants, channel erosion and flooding following construction.
- Support sediment and phosphorus reduction goals under Chesapeake Bay tributary strategies and in Southern Rivers.
- Support TMDL reductions in streams impaired by excess sediment and nutrients.
- Better protect drinking water supplies.



# Stakeholder Group Meetings

- Several meetings held with groups representing local governments, Soil and Water Conservation Districts, Homebuilders Association, and environmental and conservation groups.
- Reviewed potential alternatives and suggestions for streamlining stormwater management.
- Developed recommendations for Governor based on taskforce work and stakeholder recommendations.



# Key Recommendations

1. Consolidate stormwater programs related to construction activities within DCR.
2. Transfer oversight of municipal stormwater programs to DCR.
3. Establish a more uniform statewide construction permitting program.
4. Establish statewide stormwater requirements for projects with land disturbances of 1 acre or greater (with allowance for lower threshold in CBPA).
5. Empower local governments to implement stormwater management programs.
6. Develop a statewide permit fee system.

# Key Recommendations

7. Encourage low-impact approaches and better site designs.
8. Consolidate SWM and ESC local program reviews.
9. Increase role for the Virginia Soil and Water Conservation Board.
10. Industrial stormwater permit program would remain at DEQ.
11. Eliminate separate CBLAD requirements by incorporating into new statewide approach.



# HB1177

- ***Chief Patron: Bryant, House Patrons: Abbitt, Albo, Amundson, Dillard, Morgan, Plum and Pollard; Senate Patrons: Hanger, Howell, Puckett, Quayle and Whipple***
- **01/14/04 Prefiled in House**
- **01/28/04 Reported from House ACNR with substitute (22-Y 0-N)**
- **02/02/04 Passed House (100-Y 0-N)**
- **02/23/04 Reported from Senate ACNR with substitute (15-Y 0-N)**
- **02/25/04 Passed Senate with substitute (40-Y 0-N)**
- **02/27/04 Senate substitute agreed to by House (98-Y 0-N)**



# Consolidation: 2 Step Process

## 1st Step: Transfer to VSWCB & DCR



–Transferred regulatory responsibility to Virginia Soil and Water Conservation Board on July 1, 2004.



–Filled 15 new stormwater management positions

–Amended current Virginia Stormwater Management regulations to reflect changes made in HB1177

–Received EPA authorization for DCR to administer federal portion.

–Educated and involves stakeholders.

Program Transfer Effective - January 29, 2005 <sup>17</sup>

## *The Board May:*

*Delegate to the Department or to an approved locality any of the powers and duties vested in it by this article except the adoption and promulgation of regulations. **Delegation shall not remove from the Board authority to enforce the provisions of this article.** (§10.1-603.2:1.2)*



# Motion of Delegation to DCR

The Virginia Soil and Water Conservation Board does hereby delegate to the Department of Conservation and Recreation all administrative, programmatic and legal authorities prescribed under Chapter 372 of the 2004 Acts of Assembly to implement the Virginia Stormwater Management Act, excluding the authority for the adoption and promulgation of regulations, which shall remain solely with the Board. It is understood that delegation to DCR does not remove from the Board authority to enforce the provisions of the Act.



**Chapter 372 of the 2004 Virginia Acts of Assembly (HB1177)**

**Powers Reserved by Board**

**Powers to be Delegated to DCR**

- Permitting Authority
  - Permit Revocation must be approved by Board
- Enforcement Authority
  - Including Special Orders
  - Including Emergency Special Orders
- Review Authority

- Regulatory Authority
  - Adoption of Regulations
- Delegation Authority
  - Program Delegation to Locality
  - Program Revocation from Locality
- Enforcement Authority
  - Appeals
  - Hearings
  - Penalty Approval



## **2nd Step: Transfer Stormwater Permitting to Localities**

- Develop additional regulatory procedures for delegating responsibilities to localities, addressing state agency project review, LID, etc.
- Develop model ordinance



# 2nd Step - Locality Impacts

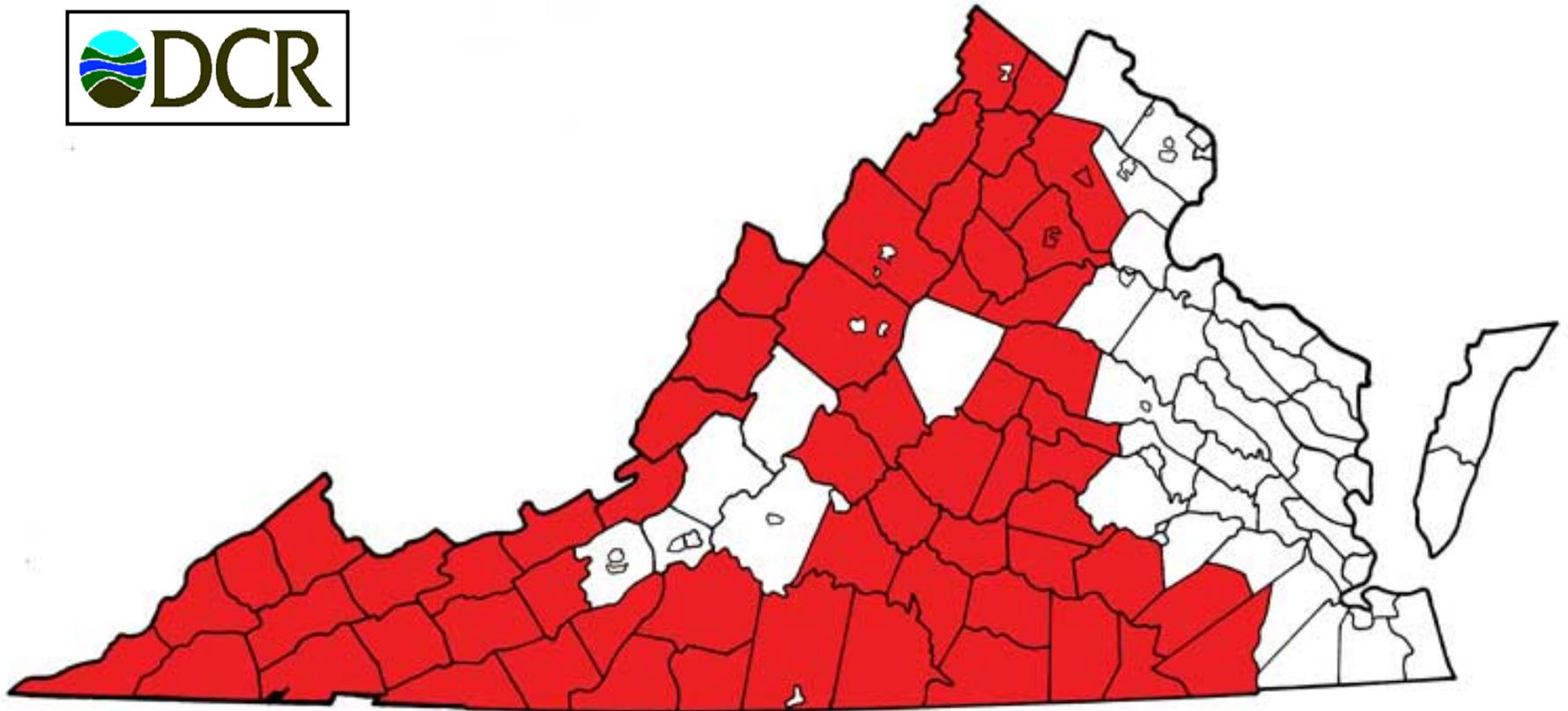
Localities with MS4 permits and localities within the CBPA Area must adopt a local stormwater management program *according to a schedule set by the Board but no sooner than 12 months and not more than 18 months following the effective date of the regulation that establishes local program criteria and delegation procedures.*

Localities not covered by a MS4 permit or not within the CBPA Area may elect to adopt a local stormwater management program.

They shall inform the Board and the Department of their initial intention to seek delegation for the stormwater management program for land disturbing permits *within six months following the effective date of the regulation that establishes local program criteria and delegation procedures.*



# **Localities which may adopt local stormwater programs and required to notify DCR of intention**



**In absence of local stormwater programs, DCR will administer stormwater requirements for locality.**

# 2nd Step - Construction Permits

- Localities that adopt an approved local stormwater management program will operate the minimum program and issue the General Permit for Discharges of Stormwater from Construction Activities.
- DCR will continue to issue the General Permit and operate a minimum program in localities not electing to adopt an approved stormwater management program.



VA Acts of Assembly – 2004 Session  
Chapter 372 (HB 1177)



VA Soil & Water  
Conservation Board

Board may  
delegate

today



Dept. of Conservation  
And Recreation

*future*



Approved Locality

# **Regulatory Process and Notice of Intended Regulatory Action (NOIRA)**

# Regulatory Process

- A. NOIRA Phase

- Notice of Intended Regulatory Action (NOIRA) published in the Virginia Register December 26, 2005 initiating a 60-day public comment period.
- Two public meetings were held; February 16<sup>th</sup> in Roanoke and February 17<sup>th</sup> in Richmond.
- Public comment period on the NOIRA ended on February 24, 2006.

- B. 180 Day Proposed Regulation Development Phase

- Proposed regulation should be submitted to the Department of Planning and Budget (DPB) within 180 days of the close of the public comment period.
- This would be late August. Prior to submittal of the Regulation we will need to assemble a Technical Advisory group, hold meetings, draft the proposed regulation, seek Attorney General review, and discuss with the Board and seek approval.

# Regulatory Process



## •C. Review of Draft Regulations

- DPB review through early October - develop an economic impact analysis.
- October – review by the Administration
- November - proposed regulation published initiating a 60-day public comment period.
- Public comment period, unless extended, would end in late January. Public hearings on the regulation would need to be held across the state in mid January.
- Should the regulation proceed on this tentative schedule, the final regs would be due around the end of June with an anticipated effective date of the final regs around the end of September.

# NOIRA Identified Issues

## **NOIRA 1: Local Stormwater Management Program and Delegation Procedures Development**

- (1) develop minimum criteria that a local stormwater management program must contain to receive program delegation by the Board;
- (2) develop program approval and delegation procedures for the Virginia Stormwater Management Program, or parts thereof, by the Board
  - to localities located within Tidewater Virginia as defined by the Chesapeake Bay Preservation Act (§10.1-2100 et seq.);
  - to localities partially or wholly designated as an MS4 under the provisions of the federal Clean Water Act; and
  - to localities requesting delegation from the Board;
- (3) develop a framework by which the Department of Conservation and Recreation will administer the responsibilities of the Virginia Stormwater Management Program for localities not delegated program authority;

# NOIRA Identified Issues

- (4) allow for changes as needed to improve the administration and implementation of the stormwater management program; and
- (5) allow for the removal of the out-of-date Best Management Practices (BMP) nutrient removal efficiency information from the current regulations and reflect its addition into the Virginia Stormwater Management Handbook guidance document where it shall be more regularly updated for public use.

## **NOIRA 2: Fee Modifications**

- (6) allow for changes in the statewide permit fee schedule to a level sufficient to cover the state and local costs associated with program implementation; and
- (7) allow for related changes as needed to improve the administration and implementation of the stormwater management fees.



# Public Comments

- We had 24 people attend the public meeting in Roanoke (not including DCR staff). No one wished to provide any formal comments, although clarifying questions were asked by a number of individuals in attendance.
- We had 23 people attend the public meeting in Richmond with 4 people who spoke. Again, questions were asked by other individuals in attendance.
- In addition to the individuals who spoke at the public meeting, 10 people submitted written comments.
- Comment summary has been provided in your notebooks.



# **Stormwater Management Program**

Within the Department of Conservation and Recreation the primary responsibility to reduce pollutants loads to Virginia's waters falls to the Division of Soil and Water Conservation.



**§ 10.1-104.1. Department to be lead agency for nonpoint source pollution program.**

A. The Department, with the advice of the Board of Conservation and Recreation and the Virginia Soil and Water Conservation Board and in cooperation with other agencies, organizations, and the public as appropriate, shall have the lead responsibility for the Commonwealth's nonpoint source pollution management program.....



# DCR Boards, Foundations, etc.

## Three Policy Boards

- Board of Conservation and Recreation
- **Virginia Soil and Water Conservation Board**
- Chesapeake Bay Local Assistance Board

## Three Foundations

- Virginia Land Conservation Foundation
- Chippokes Plantation Farm Foundation
- Virginia Outdoors Foundation

## One Commission

- Breaks Interstate Park Commission

## Three Advisory Boards

- Virginia Scenic River Advisory Board
- Cave Board
- Lower James Historic River Advisory Committee

## One Council

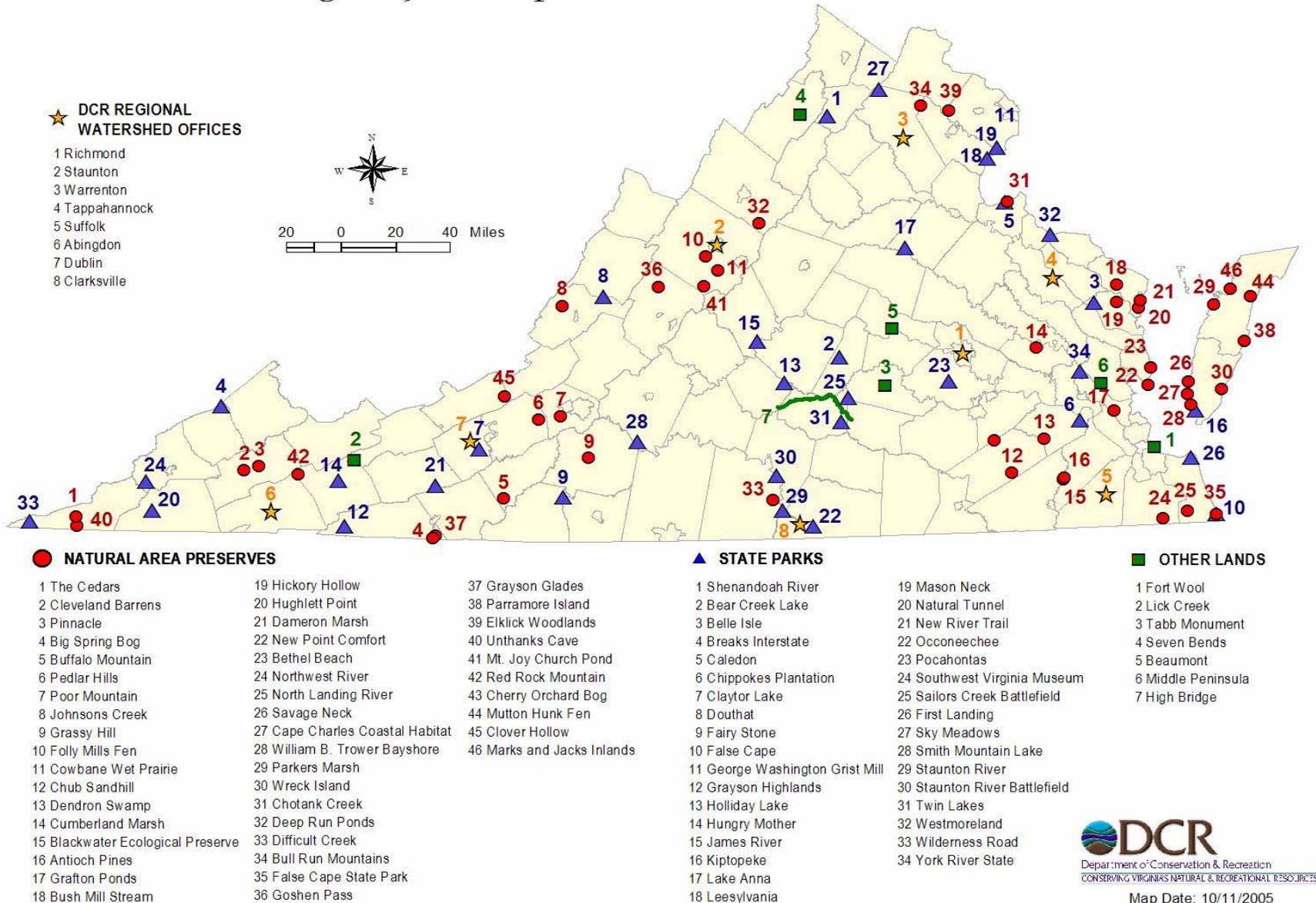
- Invasive Species Council

## The Division's key responsibilities include:

- Designated as the Commonwealth's lead for Nonpoint Source Pollution Management.
- **Administers Consolidated Stormwater Management Permit Program and the Erosion and Sediment Control Law.**
- Provides administrative and financial management to the 47 Soil and Water Conservation Districts.
- Administers Nutrient Management Training & Certification Program.
- Administers Agricultural Programs: Agricultural Cost-share Program and Conservation Reserve Enhancement Program.
- Lead for development of Chesapeake Bay Program Tributary Strategies.
- **Operates 8 regional offices.**



# Lands Managed by the Department of Conservation and Recreation



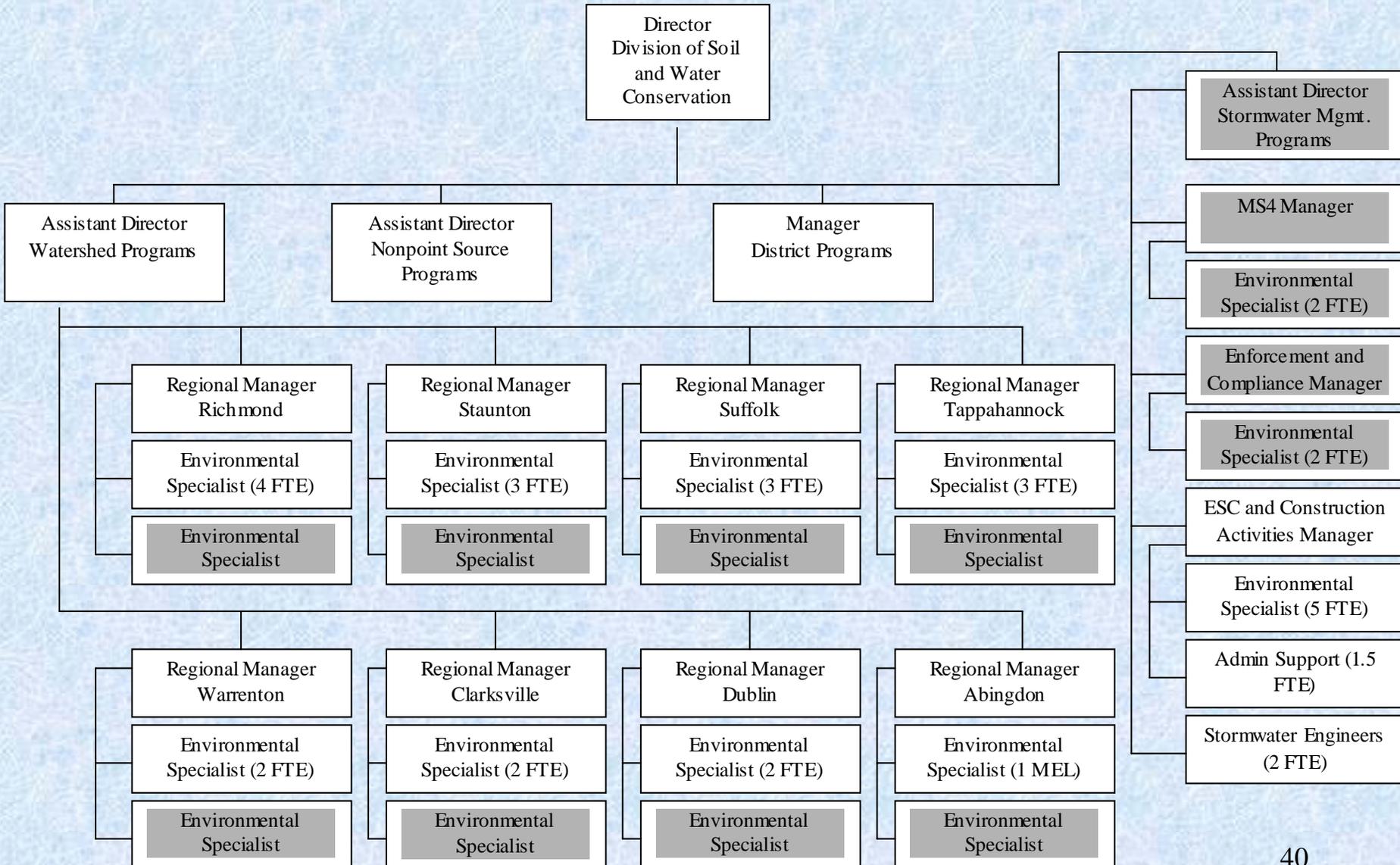
- The Virginia Stormwater Management Program was created by Chapter 372 of the 2004 Virginia Acts of Assembly (HB1177) and this action transferred the responsibility of the permitting programs for MS4s and construction activities from DEQ to the Virginia Soil and Water Conservation Board and DCR.
- This transfer became effective January 29, 2005. As a result, DCR is responsible for the issuance, denial, revocation, termination and enforcement of NPDES permits for the control of stormwater discharges from MS4s and land disturbing activities under the Virginia Stormwater Management Program.

- The consolidation of the Commonwealth's Stormwater Management Program into the Department of Conservation and Recreation resulted in additional staff needs to implement the program.
- The initial primary staffing for the Virginia Stormwater Management Program (VSMP) totals 15 FTE with seven (7) positions in the Richmond Central Office and eight (8) positions located in the regional offices.
- The new staff complements the existing 26.5 positions presently involved with the Erosion and Sediment Control and Stormwater Management Programs.

# DCR's Soil and Water Conservation Division's Organizational Structure



This chart reflects those positions that have a role in the implementation of the stormwater permit program.



- The Virginia Stormwater Management Program seeks to protect properties and aquatic resources from damages caused by increased volume, frequency and peak rate of stormwater runoff. Further, the program seeks to protect those resources from increased nonpoint source pollution carried by stormwater runoff.



*Quantity of Stormwater Runoff* - Urban landscape typically covers areas with impervious surfaces, such as pavement and rooftops. These impervious surfaces generate runoff every time it rains. (A typical city block generates nine times more runoff than a woodland area of the same size!) The quantity of runoff from these areas quickly overwhelms natural channels and streams, often causing channel erosion, localized flooding and property damage.

*Quality of Stormwater Runoff* - The pervious and impervious surfaces in the urbanizing landscape collect pollutants such as automobile oil, grease, brake pad dust, sediment from construction sites, bacteria from animal waste, excess lawn care fertilizers and pesticides, as well as atmospheric deposition of phosphorus, nitrogen and other airborne pollutants. Rainfall washes these surfaces so that the initial flush of runoff can carry high concentrations of these pollutants to nearby drinking water supplies, waterways, beaches and properties. Pollution washed from the land surface by rainfall is called nonpoint source pollution.



- SWM programs are implemented according to the Virginia Stormwater Management Law and Virginia Stormwater Management Program (VSMP) Permit Regulations. The law is codified at Title 10.1, Chapter 6, Article 1.1 of the Code of Virginia and the Regulations are found at § 4VAC50-60-10 et seq. of the Virginia Administrative Code.
- These statutes specifically set forth regulations regarding land development activities to prevent water pollution, stream channel erosion, depletion of groundwater resources, and more frequent localized flooding to protect property value and natural resources.
- SWM programs operated according to the law are intended to address these adverse impacts and comprehensively manage the quality and quantity of stormwater runoff on a watershed-wide basis.

# Code Requirements

## **§ 10.1-603.2:1. Powers and duties of the Virginia Soil and Water Conservation Board.**



The Board may act to ensure the general health, safety and welfare of the citizens of the Commonwealth as well as protect the quality and quantity of state waters from the potential harm of unmanaged stormwater.

Additionally the Board may:

- Issue, deny, amend, revoke, terminate, and enforce permits for the control of stormwater discharges from Municipal Separate Storm Sewer Systems and land disturbing activities.
- Delegate to the Department or to an approved locality any of the powers and duties vested in it except the promulgation of regulations
- Take administrative and legal actions to ensure compliance
- Cause investigations and inspections, or delegate authority to do so
- Adopt rules governing the procedure of the permit issuing authority with respect to: (i) hearings; (ii) the filing of reports; (iii) the issuance of permits and special orders; and (iv) all other matters relating to procedure; and to amend or cancel any rule adopted.
- Issue special orders and emergency special orders.
- Issue consent orders for the payment of civil charges for violations.

## § 10.1-603.2:2. Permits.

- **It shall be unlawful to cause a stormwater discharge from an MS4 or a land disturbing activity except in compliance with a permit** issued by a permit issuing authority.
- All permits issued by the permit issuing authority under this article shall have fixed terms.....

## § 10.1-603.3. Establishment of stormwater management programs by localities.

A. **Any locality located within Tidewater Virginia** as defined by the Chesapeake Bay Preservation Act, **or any locality that is partially or wholly designated as an MS4** under the provisions of the federal Clean Water Act, **shall be required to adopt a local stormwater management program** for land disturbing activities consistent with the provisions of this article according to a schedule set by the Board but **no sooner than 12 months and not more than 18 months following the effective date of the regulation** that establishes local program criteria and delegation procedures.

**B. Any locality not specified in subsection A may elect to adopt and administer a local stormwater management program for land disturbing activities pursuant to this article.** Such localities shall inform the Board and the Department of their initial intention to seek delegation for the stormwater management program for land disturbing permits within six months following the effective date of the regulation that establishes local program criteria and delegation procedures. Thereafter, the Department shall provide an annual schedule by which localities can submit applications for delegation.



**C. In the absence of the delegation of a stormwater management program to a locality, the Department will administer the responsibilities of this article within the given jurisdiction.**

**D. The Department shall develop a model ordinance** for establishing a local stormwater management program consistent with this article.

**E. Each locality that is required to or that elects to adopt and administer an approved local stormwater management program shall, by ordinance, establish a local stormwater management program** that may be administered in conjunction with a local MS4 program and a local erosion and sediment control program, which shall include, but is not limited to, the following:

1. Consistency with regulations adopted in accordance with provisions of this article;
2. Provisions for long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff; and
3. Provisions for the integration of locally adopted stormwater management programs with local erosion and sediment control, flood insurance, flood plain management, and other programs requiring compliance prior to authorizing construction in order to make the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities more convenient and efficient both for the local governments and those responsible for compliance with the programs.



**F. The Board shall delegate a local stormwater management program to a locality when it deems a program consistent with this article.**

**G. Delegated localities may enter into agreements with soil and water conservation districts, adjacent localities, or other entities to carry out the responsibilities of this article.**

H. Localities that adopt a local stormwater management program shall have the authority to issue a consolidated stormwater management and erosion and sediment control permit that is consistent with the provisions of the Erosion and Sediment Control Law.

I. Any local stormwater management program adopted pursuant to and consistent with this article shall be considered to meet the stormwater management requirements under the Chesapeake Bay Preservation Act and attendant regulations.



## § 10.1-603.4. Development of regulations.



**The Board is authorized to adopt regulations that specify minimum technical criteria and administrative procedures for stormwater management programs in Virginia. The regulations shall:**

1. Establish **standards and procedures for delegating the authority** for administering a stormwater management program to localities;

2. **Establish minimum design criteria for measures to control nonpoint source pollution and localized flooding, and incorporate the stormwater management regulations adopted pursuant to the Virginia Erosion and Sediment Control Law, as they relate to the prevention of stream channel erosion.** These criteria shall be periodically modified as required in order to reflect current engineering methods;

3. Require the provision of long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff;

4. **Require as a minimum the inclusion in local programs of certain administrative procedures** which include, but are not limited to, specifying the time period within which a local government that has adopted a stormwater management program must grant permit approval, the conditions under which approval shall be granted, the procedures for communicating disapproval, the conditions under which an approved permit may be changed and requirements for inspection of approved projects;



**5. Establish, with the concurrence of the Director, a statewide permit fee schedule for stormwater management related to land disturbing activities of one acre or greater. The fee schedule shall also include a provision for a reduced fee for land disturbing activities between 2,500 square feet and up to 1 acre in Chesapeake Bay Preservation Act localities.** The regulations shall be governed by the following:

a. .... However, whenever the Board has delegated a stormwater management program to a locality or is required to do so under this article, no more than 30 percent of the total revenue generated by the statewide stormwater permit fees collected within the locality shall be remitted to the State Treasurer, for deposit in the Virginia Stormwater Management Fund.



b. Fees collected pursuant to this section shall be in addition to any general fund appropriation made to the Department; however, the **fees shall be set at a level sufficient for the Department to carry out its responsibilities under this article;**

6. **Establish statewide standards for stormwater management from land disturbing activities of one acre or greater,** except as specified otherwise within this article, and allow for the consolidation in the permit of a comprehensive approach to addressing stormwater management and erosion and sediment control, consistent with the provisions of the Erosion and Sediment Control Law and this article. However, **such standards shall also apply to land disturbing activity exceeding an area of 2500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act;**

**7. Require that stormwater management programs maintain after-development runoff rate of flow and characteristics** that replicate, as nearly as practicable, the existing predevelopment runoff characteristics and site hydrology, or improve upon the contributing share of the existing predevelopment runoff characteristics and site hydrology if stream channel erosion or localized flooding is an existing predevelopment condition. Any land-disturbing activity that provides for stormwater management shall satisfy the conditions of this subsection if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels as defined in any regulations promulgated pursuant to this section, or any ordinances adopted pursuant to § 10.1-603.3 or 10.1-603.7;

8. **Encourage low impact development designs, regional and watershed approaches, and nonstructural means for controlling stormwater; and**

9. Establish, with the concurrence of the Director, a statewide permit fee schedule for stormwater management related to municipal separate storm sewer system permits.



## **§ 10.1-603.7. Authorization for more stringent ordinances.**

A. Localities are authorized to adopt more stringent stormwater management ordinances than those necessary to ensure compliance with the Board's minimum regulations, provided that the more stringent ordinances .....

## **§ 10.1-603.9. Permit application required for issuance of grading, building, or other permits.**

Upon the adoption of a local ordinance no grading, building or other permit shall be issued for a property unless a stormwater permit application has been approved that is consistent with the stormwater program and this article and unless the applicant has certified that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit conditions.



## **§ 10.1-603.11. Monitoring, reports, investigations, and inspections.**

A. The permit issuing authority (i) shall provide for periodic inspections of the installation of stormwater management measures (ii) may require monitoring and reports from the person responsible for meeting the permit conditions to ensure compliance with the permit and to determine whether the measures required in the permit provide effective stormwater management, and (iii) conduct such investigations and perform such other actions as are necessary to carry out the provisions of this article.....



# **Regulatory Requirements**

# CHAPTER 60 VIRGINIA STORMWATER MANAGEMENT PROGRAM (VSMP) PERMIT REGULATIONS

Part I Definitions, Purposes, and Applicability

**Part II Stormwater Management Program Technical Criteria**

**Part III Local Programs**

Part IV Technical Criteria and Permit Application Requirements for State Projects

Part V Reporting

Part VI VSMP General Program Requirements Related to MS4s and Land-Disturbing Activities

Part VII VSMP Permit Applications



Part VIII VSMP Permit Conditions



Part IX Public Involvement

Part X Transfer, Modification, Revocation and Reissuance, and Termination of VSMP Permits

Part XI Enforcement of VSMP Permits

Part XII Miscellaneous

**Part XIII Fees**

Part XIV General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Construction Activities

Part XV General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems

FORMS

## **4VAC50-60-10. Definitions.**

"Local stormwater management program" or "local program" means a statement of the various methods employed by a locality to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, permit requirements, policies and guidelines, technical materials, inspection, enforcement, and evaluation consistent with the Act and this chapter. The ordinance shall include provisions to require the control of after-development stormwater runoff rate of flow, the proper maintenance of stormwater management facilities, and minimum administrative procedures.

"Permit-issuing authority" means the board, the department, or a locality that is delegated authority by the board to issue, deny, revoke, terminate, or amend stormwater permits under the provisions of the Act and this chapter.

## Part II Stormwater Management Program Technical Criteria

- **4VAC50-60-40. Applicability.**
  - Explains that this Part specifies the water quality (and soon water quantity) technical criteria for every stormwater management program and land-disturbing activity.



## •4VAC50-60-50. General.

Specifies general stormwater management issues such as:

- Flooding and channel erosion impacts to receiving streams shall be measured at each point of discharge,
- Specifications for design storms,
- Assumptions for computing runoff,
- Compliance with all applicable laws and regulations,
- Design standards for non-regulated impounding structures,
- Pre-development and post-development runoff rates verification practices,
- Discharge of outflows to an adequate channel,
- Application of stormwater management criteria to the land disturbance from proposed residential, commercial, or industrial subdivisions,
- Need for inspection and maintenance plans for all stormwater management facilities,
- Avoidance of stormwater management impoundment structure construction in designated 100-year floodplains,
- Natural channel characteristics preservation,
- Compliance with Erosion and Sediment Control Law and regulations, and
- The siting of flood control and stormwater management facilities in Resource Protection Areas with specified provisions.

- **4VAC50-60-60. Water quality.**

- Compliance with the water quality criteria may be achieved by applying performance-based criteria or technology-based criteria to either the site or a planning area.

- **4VAC50-60-70. Stream channel erosion.**

- Establishes that properties and receiving waterways downstream of any land-disturbing activity shall be protected from erosion and damage due to changes in runoff rate of flow and hydrologic characteristics

- **4VAC50-60-80. Flooding.**

- Establishes that downstream properties and waterways shall be protected from damages from localized flooding due to changes in runoff rate of flow and hydrologic characteristics, including but not limited to, changes in volume, velocity, frequency, duration, and peak flow

- **4VAC50-60-90. Regional (watershed-wide) stormwater management plans.**

- This section enables localities to develop regional stormwater management plans.

- The objective of a regional stormwater management plan is to address the stormwater management concerns in a given watershed with greater economy and efficiency by installing regional stormwater management facilities versus individual, site-specific facilities. The result will be fewer stormwater management facilities to design, build and maintain in the affected watershed.

## Part III Local Programs



- **4VAC50-60-100. Applicability.**
  - Explains that this part specifies technical criteria, minimum ordinance requirements, and administrative procedures for all localities operating local stormwater management programs.
- **4VAC50-60-110. Technical criteria for local programs.**
  - Specifies that all local stormwater management programs shall comply with the general technical criteria and provisions for stormwater management setout in Part II,
  - Notes that a locality that has adopted more stringent requirements or implemented a regional (watershed-wide) stormwater management plan may request, in writing, that the department consider these requirements in its review of state projects within that locality, and
  - Establishes that nothing in this part shall be construed as authorizing a locality to regulate, or to require prior approval by the locality for, a state project.

## •4VAC50-60-120. Requirements for local program and ordinance.

- Establishes minimum criteria that the local stormwater management program and implementing ordinance shall meet,
- Requires the department to periodically review each locality's stormwater management program, implementing ordinance, and amendments, and
- Establishes that nothing in the regulations shall be construed as limiting the rights of other federal and state agencies from imposing stricter technical criteria or other requirements as allowed by law.



**•4VAC50-60-130. Administrative procedures:  
stormwater management plans.**

–Establishes that localities shall approve or disapprove stormwater management plans within a maximum of 60 calendar days from the day a complete stormwater management plan is accepted for review and that disapproval of a plan shall contain the reasons for disapproval,

–Requires each plan to specify that the applicant shall comply with all applicable requirements of the approved plan, the local program, this chapter and the Act, and for the applicant to certify that all land clearing, construction, land development and drainage will be done in accordance with the approved plan,

–Specifies that the locality shall be allowed to conduct periodic inspections of the project and that the person responsible for implementing the approved plan shall conduct monitoring and submit reports.

**•4VAC50-60-140. Administrative procedures: exceptions.**

–Specifies that a request for an exception to the regulations shall be submitted, in writing, to the locality and that an exception may be granted, provided that the exceptions are the minimum necessary to afford relief and that reasonable and appropriate conditions shall be imposed to preserve the intent of the Act and regulations,

–Notes that economic hardship is not sufficient reason to grant an exception from the requirements of the regulations.



**•4VAC50-60-150. Administrative procedures: maintenance and inspections.**

- Establishes long-term responsibility for the operation and maintenance of stormwater management facilities,
- Requires maintenance inspection schedules,
- Requires right-of-entry agreements or easement requirements for the purpose of inspection and maintenance,
- Specifies that periodic inspections of all stormwater management facilities by localities shall either be on an annual basis or according to an alternative inspection program,
- Requires localities during construction of the stormwater management facilities to make inspections on a regular basis, and
- Requires inspection reports to be maintained as part of a land development project file.

## Part XIII Fees



- 4VAC50-60-700. Purpose.
- 4VAC50-60-710. Definitions.
- 4VAC50-60-720. Authority.
- 4VAC50-60-730. Applicability.
- 4VAC50-60-740. Exemptions.
- 4VAC50-60-750. Due dates for Virginia Stormwater Management Program (VSMP) Permits.
- 4VAC50-60-760. Method of payment.
- 4VAC50-60-770. Incomplete payments and late payments.
- 4VAC50-60-780. Deposit and use of fees.
- 4VAC50-60-790. General.
- 4VAC50-60-800. Fee schedules for VSMP Municipal Separate Storm Sewer System new permit issuance.
- 4VAC50-60-810. Fee schedules for major modification of individual permits or certificates requested by the permittee.
- 4VAC50-60-820. Fees for filing permit applications (registration statements) for general permits issued by the permit-issuing authority.
- 4VAC50-60-830. Permit maintenance fees.

## **4VAC50-60-800. Fee schedules for VSMP Municipal Separate Storm Sewer System new permit issuance.**

The following fee schedule applies to permit applications for issuance of a new VSMP Municipal Separate Storm Sewer System permit.

VSMP Municipal Stormwater / MS4 Individual (Large and Medium)	\$21,300
VSMP Municipal Stormwater / MS4 Individual (Small)	\$2,000
VSMP Municipal Stormwater / MS4 General Permit (Small)	\$600



**4VAC50-60-810. Fee schedules for major modification of individual permits or certificates requested by the permittee.**

The following fee schedules apply to applications for major modification of an individual permit requested by the permittee:

The permit application fees listed in the table below apply to a major modification of a VSMP Municipal Separate Storm Sewer Systems Permit that occurs (and becomes effective) before the stated permit expiration date.

VSMP Municipal Stormwater / MS4 (Large and Medium)	\$10,650
VSMP Municipal Stormwater / MS4 Individual (Small)	\$1,000



**4VAC50-60-820. Fees for filing permit applications (registration statements) for general permits issued by the permit issuing authority.**

The following fees apply to filing of permit applications (registration statements) for all general permits issued by the permit issuing authority, except:



**VSMP Stormwater Construction General Permits**

The fee for filing a permit application (registration statement) for coverage under a VSMP stormwater general permit issued by the permit issuing authority shall be:

VSMP General / Stormwater Management - Phase I Land Clearing ("Large" Construction Activity - Sites or common plans of development equal to or greater than 5 acres)	\$500
VSMP General / Stormwater Management - Phase II Land Clearing ("Small" Construction Activity - Sites or common plans of development equal to or greater than 1 acre and less than 5 Acres)	\$300

## 4VAC50-60-830. Permit Maintenance Fees.

A. The following annual permit maintenance fees apply to each VSMP permit identified below, including expired permits that have been administratively continued:

VSMP Municipal Stormwater / MS4 (Large and Medium)	\$3,800
VSMP Municipal Stormwater / MS4 Individual (Small)	\$400
VSMP General / Stormwater Management - Phase I Land Clearing ("Large" Construction Activity - Sites or common plans of development equal to or greater than 5 acres)	\$0
VSMP General / Stormwater Management - Phase II Land Clearing ("Small" Construction Activity - Sites or common plans of development equal to or greater than 1 acre and less than 5 Acres)	\$0

B. An additional permit maintenance fee of \$1,000 shall be paid annually by permittees in a toxics management program. Any facility that performs acute or chronic biological testing for compliance with a limit or special condition requiring monitoring in a VPDES permit is included in the toxics management program.

- Later this meeting and in subsequent meetings we will thoroughly review the specific components of the key parts of the regulations and discuss issues and potential amendments associated with each.





Department of Conservation & Recreation

CONSERVING VIRGINIA'S NATURAL AND RECREATIONAL RESOURCES